

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
ADMINISTRATIVE LAW JUDGE ARTHUR AMCHAN  
REGION 9

CASE NO. 9-CA-066542

JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC.  
d/b/a OUR LADY OF PEACE

EMPLOYER

and **CHARGING PARTY'S RESPONSE TO RESPONDENT'S  
MOTION TO ACCEPT LATE FILINGS OF EXCEPTIONS AND BRIEF  
IN SUPPORT OF EXCEPTIONS  
TO THE ADMINISTRATIVE LAW JUDGE'S DECISION**

AFSCME COUNCIL 62, AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES

CHARGING PARTY

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The Charging Party, the American Federation of State, County, and Municipal Employees ("AFSCME") Council 62, files this response in opposition to Respondent Jewish Hospital & St. Mary's Healthcare, Inc. d/b/a Our Lady of Peace's (OLOP's) Motion to Accept Late Filing of Exceptions and Brief in Support of Exceptions to the Administrative Law Judge's Decision. Respondent does not mean the standard for excusable neglect stated in 29 C.F.R. § 102.111(4)(c).

**STATEMENT OF FACTS**

On Monday, March 5, 2012, Executive Secretary Lester A. Heltzer issued an "Order" in the above-styled case transferring the proceeding to the National Labor Relations Board.

A copy of Executive Secretary Heltzer's Order, received by Counsel for the Charging Party, is attached to this Motion as Exhibit A.<sup>1</sup> The Order states, in boldface type:

**Note particularly the limitation on length of briefs and of paper, and that requests for extension of time must be served in accordance with the requirements of the Board's Rules and Regulations Section 102.114(a) and (i).<sup>2</sup>**

The Order states that exceptions the Decision of the Administrative Law Judge must be received by the Board's Office of the Executive Secretary by **April 2, 2012**.<sup>3</sup> Counsel for the Charging Party Irwin H. Cutler, Jr. and Cori L. Metcalf, located in Louisville, Kentucky, each received a copy of the Administrative Law Judge's Decision attached to the Order via U.S. Mail on Wednesday, March 7, 2012.<sup>4</sup> AFSCME Council 62 Lead Organizer Cathy Myer, located in Indianapolis, Indiana, received a copy of the Administrative Law Judge's Decision attached to the Order via U.S. Mail on Tuesday, March 6, 2012.<sup>5</sup> However, according to her affidavit, attached to this Motion as Exhibit C, Counsel for the Respondent, Stephanie Dodge Gournis, who is located in Chicago, Illinois, states that "in good faith and belief" neither she nor any of her colleagues ever received a copy of the Order attached to the Administrative Law Judge's Decision, which she states she received "on or about" March 12, 2012, six days after it was received in Indianapolis, Indiana and five days after it was received in Louisville, Kentucky.<sup>6</sup>

As of 11:59 p.m. on Monday, April 2, 2012, the Charging Party had not received any exceptions filed by Respondent's counsel, nor had it received any request for an extension

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<sup>1</sup> Exhibit A.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Mr. Cutler's affidavit is attached as Exhibit B. Aff. Irwin H. Cutler, Jr. ¶¶ 4-5 (Apr. 15, 2012).

<sup>5</sup> *Id.* at ¶ 6.

<sup>6</sup> Exhibit C, ¶¶ 5, 13.

of time.<sup>7</sup> On Friday, April 6, 2012, counsel for the Charging Party received an overnight FedEx delivery, sent by Respondent's counsel on Thursday, April 5, 2012, containing Respondent's Exceptions to the Administrative Law Judge's Decision and Brief.<sup>8</sup>

On Friday, April 6, Associate Executive Secretary Roxanne L. Rothschild sent a letter, attached to this Motion as Exhibit D, notifying all parties that Respondent's Exceptions, filed on April 4, 2012, two days after the due date of April 2, 2012, were untimely.<sup>9</sup> The notice reminded Respondent's counsel that pursuant to C.F.R. § 102.111(4)(c), a party may request that the Board accept a late filing due to "excusable neglect," accompanied by an affidavit or sworn statement describing the reasons for the lateness.<sup>10</sup> On April 12, 2012, counsel for the Charging Party received a Motion to Accept Late Filing and a supporting Affidavit from Dodge Gournis describing the reasons for late-filing. Neither the Motion to Accept Late Filing nor the supporting Affidavit meet the standard for "excusable neglect" as stated in C.F.R. § 102.111(4)(c). Therefore, the Charging Party respectfully asks the Board to deny Respondent's Motion to Accept Late Filing.

### **ARGUMENT**

#### **Miscalculating the filing date does not constitute excusable neglect.**

A finding of excusable neglect is based on many factors, including the "danger of prejudice [to the opposing side], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith."<sup>11</sup> However, the most

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<sup>7</sup> Aff. Cutler at ¶ 7.

<sup>8</sup> *Id.* at ¶ 8.

<sup>9</sup> Exhibit D.

<sup>10</sup> 29 C.F.R. § 102.111 (2002). Exhibit D.

<sup>11</sup> *Pioneer Inv. Serv. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993).

important factor is “the untimely party’s reason for delay.”<sup>12</sup> In *International Union of Elevator Constructors, Local 2*, the Respondent mistakenly calculated a due date to be a Saturday, therefore delaying transmission of the brief so that it arrived on a Monday, three days late. While the Board ended up accepting the late filing due to the confusion and ambiguity of prior Board decisions, it established a bright-line rule for future cases of late filing, expressly declining to include miscalculation of a due date within its definition of “excusable neglect.”<sup>13</sup>

In her Affidavit, Dodge Gournis claims “excusable neglect” because she determined, on her own and without verifying the date with the Executive Secretary, that April 4, 2012, would be the due date to file Exceptions. In support of her determination, Dodge Gournis states that on March 7, 2012, she received an email from opposing Counsel, Region 9 Board Attorney Eric Gill, which included the Administrative Law Judge’s Decision as an attachment, so she took it upon herself to calculate April 4, 2012, (28 days from March 7, 2012) as the due date to file Exceptions.<sup>14</sup> However, just as the Board declined to consider Respondent’s miscalculation of the filing date in *Int’l Union of Elevator Constructors* as “excusable neglect,” Dodge Gournis’ calculation error in determining the filing date does not rise to the standard of “excusable neglect” required in order for the Board to accept her late-filed exceptions.

Dodge Gournis, a Partner with the law firm Drinker Biddle, has “significant experience in handling traditional labor matters before the National Labor Relations Board in 10 regions throughout the United States,” according to her biography page on Drinker

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<sup>12</sup> *Int’l Union of Elevator Constructors, Loc. 2*, 337 NLRB 426, 427 (2002)

<sup>13</sup> *Id.* at 426.

<sup>14</sup> Exhibit C at ¶¶ 6- 9.

Biddle's website, attached as Exhibit E.<sup>15</sup> A person with her tenure and experience ought to know that Administrative Law Judge Decisions from the Judges' Division are always accompanied by an Order transferring the proceedings to the National Labor Relations Board. If Dodge Gournis' assertions are true that "in good faith and belief" neither she nor anyone else in her office received the Order, as an experienced Board practitioner, it was incumbent on her, at the very least, to contact the Executive Secretary to request a copy of the Order.

Dodge Gournis' assertion that she did not receive the Order lacks credibility.

On March 6, 2012, one day after Judge Amchan issued his decision, Cathy Myer, Lead Organizer for AFSCME Council 62, located in Indianapolis, Indiana received the Order transferring the proceedings to the Board along with Judge Amchan's decision by U.S. Mail.<sup>16</sup> On March 7, 2012, two days after Judge Amchan issued his decision, Counsel for the Charging Party Irwin H. Cutler, Jr. and Cori L. Metcalf, located in Louisville, Kentucky, each received the Executive Secretary's Order transferring the proceedings to the Board with a copy of Judge Amchan's decision by U.S. Mail.<sup>17</sup> It is odd that, as stated in her affidavit only on information and belief, that the Respondent, and all the attorneys representing it, received a copy of Judge Amchan's decision without an attached Order and that she did not receive the Judge's decision until March 12, in a major U.S. city.<sup>18</sup> This is implausible, given the fact that all other parties received copies of the Judge's Decision attached to the Order within two days of issuance by Judge Amchan.

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<sup>15</sup> Exhibit E.

<sup>16</sup> Exhibit B: Aff. Cutler at ¶ 6.

<sup>17</sup> *Id.* at ¶¶ 4-5.

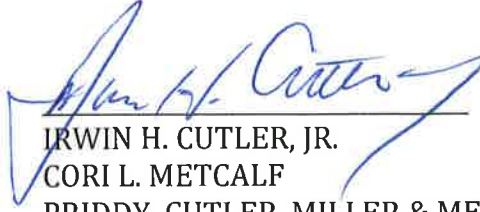
<sup>18</sup> Exhibit C at ¶¶ 5, 13.

Even if neither Respondent nor any of its attorneys received the Order transferring the proceedings to the Board along with the Judge's Decision which was clearly dated and mailed March 5, the rules require Exceptions to be filed within 28 days, or by April 2, 2012. Any Board practitioner should know that, contrary to Respondent's claim, the General Counsel does not serve ALJ decisions and that the Board's rules do not specify electronic delivery as equivalent to facsimile transmission. Service was on March 5. A simple reading of the rules would show that Exceptions were due 28 days later on April 2.

### **CONCLUSION**

The failure of Respondent and its counsel to exercise due diligence to verify the due date of Exceptions to an Administrative Law Judge's decision is simply inexcusable and, does not, under any circumstances, meet the standard for "excusable neglect," stated in 29 C.F.R. § 102.111(4)(c), that is required for acceptance of a late-filing. Because Respondent does not meet the standard for "excusable neglect," we respectfully ask the Board to deny Respondent Jewish Hospital & St. Mary's Healthcare, Inc. d/b/a Our Lady of Peace's (OLOP's) Motion to Accept Late Filing of Exceptions and Brief in Support of Exceptions to the Administrative Law Judge's Decision.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Irwin H. Cutler, Jr.", is written over a horizontal line.

IRWIN H. CUTLER, JR.

CORI L. METCALF

PRIDDY, CUTLER, MILLER & MEADE, PLLC

800 Republic Building

429 W. Muhammad Ali Blvd.

Louisville, Kentucky, 40202

Telephone: (502) 587-8600

Facsimile: (502) 632-5271

[cutler@pcmmlaw.com](mailto:cutler@pcmmlaw.com)

[metcalf@pcmmlaw.com](mailto:metcalf@pcmmlaw.com)

*Counsel for the Charging Party*

**CERTIFICATE OF SERVICE**

I certify that on April 17, 2012, a true and accurate copy of the foregoing was served on all parties by electronic mail to the following addresses listed below:

Stephanie Dodge Gournis  
DRINKER BIDDLE & REATH LLP  
191 N. Wacker Drive, Suite 3700  
Chicago, IL 60606-1698  
[stephanie.dodgegournis@dbr.com](mailto:stephanie.dodgegournis@dbr.com)  
*Counsel for the Respondent*

Eric J. Gill  
National Labor Relations Board  
Room 3003, John Weld Peck Federal Building  
550 Main Street  
Cincinnati, OH 45202-3271  
[eric.gill@nrlrb.gov](mailto:eric.gill@nrlrb.gov)  
*Counsel for the Acting General Counsel*

  
IRWIN H. CUTLER, JR.  
CORI L. METCALF  
PRIDDY, CUTLER, MILLER & MEADE, PLLC  
800 Republic Building  
429 W. Muhammad Ali Blvd.  
Louisville, Kentucky, 40202  
Telephone: (502) 587-8600  
Facsimile: (502) 632-5271  
[cutler@pcmmlaw.com](mailto:cutler@pcmmlaw.com)  
[metcalf@pcmmlaw.com](mailto:metcalf@pcmmlaw.com)  
*Counsel for the Charging Party*



# EXHIBIT A

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RECEIVED  
MAR 07 2012

BY: .....

JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC.  
d/b/a OUR LADY OF PEACE

Case 9-CA-066542

and

AFSCME COUNCIL 62, AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES

**ORDER TRANSFERRING PROCEEDING TO  
THE NATIONAL LABOR RELATIONS BOARD**

A hearing in the above-entitled proceeding having been held before a duly designated Administrative Law Judge and the Decision of the said Administrative Law Judge, a copy of which is annexed hereto, having been filed with the Board in Washington, D.C.,

**IT IS ORDERED**, pursuant to Section 102.45 of the National Labor Relations Board's Rules and Regulations, that the above-entitled matter be transferred to and continued before the Board.

Dated, Washington, D.C., March 5, 2012.

By direction of the Board:

Lester A. Heltzer



Executive Secretary

NOTE: Communications concerning compliance with the Decision of the Administrative Law Judge should be with the Director of the Regional Office issuing the complaint.

Attention is specifically directed to the excerpts from the Board's Rules and Regulations appearing on the pages attached hereto. **Note particularly the limitations on length of briefs and on size of paper, and that requests for extension of time must be served in accordance with the requirements of the Board's Rules and Regulations Section 102.114(a) & (i).**

Exceptions to the Decision of the Administrative Law Judge in this proceeding must be received by the Board's Office of the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570, on or before **April 2, 2012.**

# EXHIBIT B

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
ADMINISTRATIVE LAW JUDGE ARTHUR AMCHAN  
REGION 9

CASE NO. 9-CA-066542

JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC.  
d/b/a OUR LADY OF PEACE

EMPLOYER

and

**AFFIDAVIT OF ATTORNEY IRWIN H. CUTLER, JR.**

AFSCME COUNCIL 62, AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES

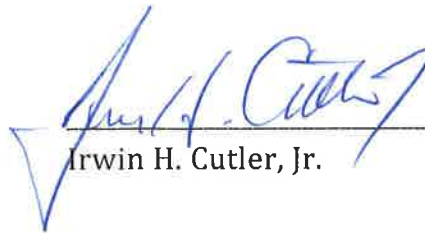
CHARGING PARTY

I, Irwin H. Cutler, Jr., after having been duly sworn under oath, state as follows:

1. I am one of the attorneys representing the Charging Party, American Federation of State, County, and Municipal Employees ("AFSCME") Council 62, in an unfair labor practice Complaint against Jewish Hospital & St. Mary's Healthcare, Inc. d/b/a Our Lady of Peace (OLOP), Case No. 9-CA-066542.
2. Administrative Law Judge Arthur Amchan held a hearing in Case No. 9-CA-066542 on January 24 and 25, 2012, in Louisville, Kentucky.
3. On March 5, 2012, Judge Amchan issued his decision, ruling in favor of the General Counsel and the Charging Party, AFSCME Council 62. Along with his decision, Executive Secretary Lester A. Heltzer issued an "Order Transferring Proceeding to the National Labor Relations Board."

4. On March 7, 2012, I received a copy of Judge Amchan's decision attached to the "Order Transferring Proceeding to the National Labor Relations Board" via U.S. Mail, at my office in Louisville, Kentucky. The "Order Transferring Proceeding to the National Labor Relations Board," states in boldface type, "Exceptions to the Decision of the Administrative Law Judge in this proceeding must be received by... **April 2, 2012.**"
5. On March 7, 2012, Cori L. Metcalf, another attorney representing AFSCME Council 62, the Charging Party, received a copy of Judge Amchan's decision attached to the "Order Transferring Proceeding to the National Labor Relations Board" via U.S. Mail at the same law office in Louisville, Kentucky.
6. On March 6, 2012, Cathy Myer, Lead Organizer for AFSCME Council 62, received a copy of Judge Amchan's decision attached to the "Order Transferring Proceeding to the National Labor Relations Board" via U.S. Mail at her office located in Indianapolis, Indiana.
7. On April 3, 2012, I had not received any Exceptions to the Administrative Law Judge's Decision filed by Respondent's Counsel, nor had I received any request from Respondent's Counsel for an extension of time to file Exceptions.
8. On Friday, April 6, 2012, four days after the deadline, I received an overnight FedEx delivery, sent by Respondent's counsel on Thursday, April 5, 2012, containing Respondent's Exceptions to the Administrative Law Judge's Decision and Brief.

The foregoing are true and correct statements to the best of my knowledge and information.

  
Irwin H. Cutler, Jr.

Commonwealth of Kentucky

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) ss

State at Large

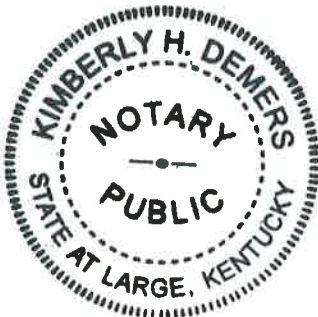
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Subscribed and sworn to before me this 16<sup>th</sup> day of April, 2012 by Irwin H. Cutler, Jr.



Notary Public

My Commission Expires: Nov 25, 2013



# EXHIBIT C

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 9**

In the Matter of:

JEWISH HOSPITAL & ST. MARY'S  
HEALTHCARE, INC. D/B/A OUR LADY OF  
PEACE,

Case No. 9-CA-066542

and

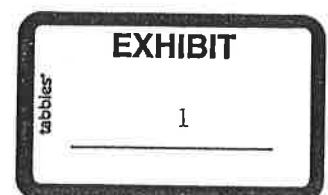
AFSCME COUNCIL 62, AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES.

**AFFIDAVIT OF ATTORNEY STEPHANIE DODGE GOURNIS**

I, Stephanie Dodge Gournis, after having been duly sworn under oath, depose and state as follows:

1. I am one of the attorneys representing Respondent Jewish Hospital and St. Mary's Healthcare, Inc. ("JHSMH") in the defense of an unfair labor practice Complaint filed against JHSMH. I have personal knowledge of all matters stated herein and, if called as a witness, I could and would competently testify to the facts contained herein.

2. On December 6, 2011, the Regional Director for Region 9 of the National Labor Relations Board ("NLRB") issued a Complaint against JHSMH in the above-referenced matter alleging that JHSMH violated Sections 8(a)(1) and (3) of the National Labor Relations Act in "selectively and disparately" enforcing its harassment and solicitation policies, and discharging Doyle because of her concerted union activities (Board Case No. 9-CA-066542) (the "Board Case"). (See Exhibit A.)





3. An administrative hearing was held in the Board Case on January 24 and 25, 2012 in Louisville, Kentucky before Administrative Law Judge Arthur Amchan (the "ALJ"). On March 5, 2012, the ALJ issued his Decision and Recommended Order ("Decision") in the Board Case. (See Exhibits B and C.)

4. At 8:47 a.m. on March 7, 2012, Trial Counsel for the General Counsel Eric Gill ("Gill"), served a copy of the Decision on me and my colleague, K. Bruce Stickler, via electronic mail. The document we received did not include an Order Transferring Proceeding to the National Labor Relations Board. (See Exhibit B.)

5. In good faith and belief, on or about March 12, 2012, I received a copy of the Decision through the mail. The copy of the Decision that was received by mail also did not include an Order Transferring Proceeding to the National Labor Relations Board. (See Exhibit C.)

6. NLRB Rules & Regulations § 102.112 provides that, generally, the date of service shall be the day when the matter served is deposited in the mail or delivered in person. § 102.112 also provides, however, that "[w]here service is made by facsimile transmission, the date of service shall be the date on which transmission is received."

7. Based on Gill's transmission of the Decision on March 7, 2012 via electronic mail, from the time we received Gill's e-mail through the date I filed JHSMH's Exceptions to the

ALJ's Decision and Brief in Support of Its Exceptions to the ALJ's Decision, I understood Gill's e-mail to constitute service of the Decision upon JHSMH.<sup>1</sup>

8. I further understood Gill's e-mail to be the modern-day service equivalent/substitute for facsimile transmission. Based on that understanding, I believed that the date of service for the Decision was March 7, 2012 and that JHSMH's Exceptions to the Decision were required to be filed on or by April 4, 2012.

9. With the belief that JHSMH's Exceptions to the Decision were due on or before April 4, 2012, I electronically filed JHSMH's Exceptions to the Decision and its Brief in Support of Its Exceptions to the Decision before 10:59 p.m. EST with Region 9 of the NLRB.

10. Any error on JHSMH's part was inadvertent. Moreover, JHSMH filed its Exceptions with the good-faith belief that it did so in compliance with the NLRB's Rules and Regulations.

11. In light of JHSMH's understanding of Gill's transmission of the Decision, there has been only a minor delay of two days in the filing of JHSMH's Exceptions and an order granting JHSMH's Motion will not cause any significant delay in the NLRB's proceedings.

12. I received notice of the NLRB's finding that JHSMH's Exceptions were untimely on April 10, 2012, via a letter dated April 6, 2012. (See Exhibit D.) Upon receiving this notice,


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<sup>1</sup> This was consistent with Gill's and JHSMH's agreement before the U.S. District Court for the Western District of Kentucky, with regard to the General Counsel's Petition for Preliminary Injunction under Section 10(j) of the National Labor Relations Act, Case No. 12-mc-6, that Gill's service to JHSMH's General Counsel, Jim Johnson, via electronic mail constituted service of the Petition.

on behalf of JHMSH I have properly sought to mitigate any alleged error by filing the attached Motion as soon as feasibly possible on April 11, 2012.


13. In good faith and belief, neither I, nor Mr. Stickler or any of my other colleagues, received the NLRB's Order Transferring Proceeding to the National Labor Relations Board, dated March 5, 2012, (which states that exceptions to the ALJ's Decision must be received by the NLRB on or before April 2, 2012), prior to receiving the NLRB's letter dated April 6, 2012.

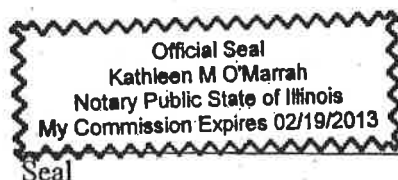
I swear or affirm that the foregoing is a true and complete statement of the facts to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Affiant

4/11/12  
\_\_\_\_\_  
Date

Sworn and signed before me this 11th day of April, 2012.

  
\_\_\_\_\_  
Notary



# EXHIBIT D



United States Government

**NATIONAL LABOR RELATIONS BOARD**

Office of the Executive Secretary  
1099 14<sup>th</sup> Street NW, Suite 11600  
Washington, DC 20570

Telephone: 202-273-1746  
Fax: 202-273-4270  
[www.nlrb.gov](http://www.nlrb.gov)

April 6, 2012



BY: .....

Stephanie Dodge Gournis  
Mark D. Nelson  
Frank Nardulli  
Drinker Biddle & Reath, LLP  
191 N. Wacker Drive, Suite 3700  
Chicago, IL 60606-1698

**Re: Jewish Hospital & St. Mary's Healthcare, Inc., d/b/a Our Lady of Peace,  
Case 09-CA-066542**

Dear Counsels:

On April 4, 2012, your office electronically filed two documents with the Office of the Executive Secretary for the National Labor Relations Board – Exceptions to the Administrative Law Judge's Decision and Respondent's Brief in Support of Exceptions to the Administrative Law Judge's Decision. These documents were received two days after the due date of April 2, 2012.

Section 102.111 (b) of the Board's Rules and Regulations states that "[w]hen the Act or any of these rules require the filing of a motion, brief, exception . . . such document must be received by the Board . . . before the official closing time of the receiving office on the last day of the time limit, if any, for such filing or extension of time that may have been granted . . .". In addition, the Agency will accept electronic filings up to 11:59 pm in the local time zone of the receiving office on the due date.

The decision of the Administrative Law Judge in this proceeding was issued on March 5, 2012. The due date for filing exceptions to the Administrative Law Judge's decision was April 2, 2012 (see attached Order Transferring Proceeding to the National Labor Relations Board). No request for an extension of time for filing exceptions to the ALJ's decision has been received by the Office of the Executive Secretary. Your office electronically filed exceptions to the ALJ's decision and a brief in support of exceptions on April 4, 2012, two days after the due date for filing exceptions in this proceeding. The filings are therefore untimely submitted and cannot be transmitted to the Board for consideration.

Pursuant to Section 102.111 (c) of the Board's Rules and Regulations, a party may request that the Board accept a late filing due to excusable neglect. That Section of the Board's Rules requires that a request to accept a late-filed document based on excusable neglect must be accompanied by an affidavit or sworn statement describing

the reason(s) for the lateness. Should you wish to have the Board consider your late-filed exceptions and brief in support of exceptions pursuant to the excusable neglect provision of the Board's Rules and Regulations, please file the request and required affidavit **as soon as possible, but in no event later than April 13, 2012**. Should you fail to file this request and affidavit, the Board will assume that you will not seek to have the documents considered by the Board pursuant to the "excusable neglect" provision.

Very truly yours,

  
Roxanne L. Rothschild  
Associate Executive Secretary

RLR/syh  
Attachment

cc: Parties

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC.  
d/b/a OUR LADY OF PEACE

Case 9-CA-066542

and

AFSCME COUNCIL 62, AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES

**ORDER TRANSFERRING PROCEEDING TO  
THE NATIONAL LABOR RELATIONS BOARD**

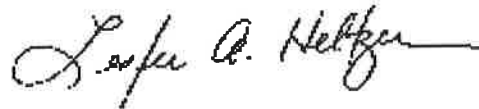
A hearing in the above-entitled proceeding having been held before a duly designated Administrative Law Judge and the Decision of the said Administrative Law Judge, a copy of which is annexed hereto, having been filed with the Board in Washington, D.C.,

**IT IS ORDERED**, pursuant to Section 102.45 of the National Labor Relations Board's Rules and Regulations, that the above-entitled matter be transferred to and continued before the Board.

Dated, Washington, D.C., March 5, 2012.

By direction of the Board:

Lester A. Heltzer



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Executive Secretary

**NOTE:** Communications concerning compliance with the Decision of the Administrative Law Judge should be with the Director of the Regional Office issuing the complaint.

Attention is specifically directed to the excerpts from the Board's Rules and Regulations appearing on the pages attached hereto. **Note particularly the limitations on length of briefs and on size of paper, and that requests for extension of time must be served in accordance with the requirements of the Board's Rules and Regulations Section 102.114(a) & (i).**

Exceptions to the Decision of the Administrative Law Judge in this proceeding must be received by the Board's Office of the Executive Secretary, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570, on or before **April 2, 2012.**

# EXHIBIT E



# Drinker Biddle

## **Stephanie Dodge Gournis**

Partner

**Stephanie Dodge Gournis** is a partner in the firm's Labor & Employment Practice Group and hiring partner for the Chicago office. She also serves as a member of the firm's Women's Committee. Stephanie is engaged exclusively in the representation of management in all aspects of traditional labor and employment matters.

Stephanie regularly represents employers in defending administrative and federal/state court complaints involving equal employment opportunity discrimination, retaliatory discharge, harassment, whistleblower rights, the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), the Fair Labor Standards Act (FLSA) and state wage and hour claims.

Stephanie has significant experience in handling traditional labor matters before the National Labor Relations Board in 10 regions throughout the United States. She has negotiated several initial and successor collective bargaining agreements, and regularly counsels clients in all areas involving labor relations strategy, union organizing, corporate campaigns, contract negotiations and grievance arbitration.

Stephanie devotes a significant portion of her practice to representing hospital and health care clients in labor relations and employment matters and regularly conducts EEO and wage and hour compliance and union vulnerability audits for health care systems and stand alone health care facilities, both big and small.

Stephanie lectures extensively throughout the country on a variety of labor and employment matters, including sexual harassment, FMLA, ADA, wage and hour, discipline and discharge, volunteer rights and responsibilities, workplace violence, labor relations, corporate campaigns, and labor relations strategy and defense. She is a co-author of the IICLE, Labor Law



## **CONTACT INFO**

Chicago  
191 N. Wacker Dr., Ste. 3700  
Chicago, IL 60606-1698  
(312) 569-1327  
(312) 569-3327 fax  
Stephanie.DodgeGournis@dbr.com

## **RELATED PRACTICES**

Health Care  
Regulatory Environment  
Labor & Employment

## **EDUCATION**

University of Illinois College of Law, J.D.  
University of Illinois, Urbana-Champaign, B.A.

## **BAR ADMISSIONS**

Illinois

## **PROFESSIONAL & CIVIC ASSOCIATIONS**

Member, Board of Directors of the Chicago Coalition of Women's Initiatives in Law Firms

## **RELATED INFORMATION**

Publications

Chapter entitled "Illinois Institute For Continuing Legal Education, *The Labor Law Handbook*, Chapter 20: Special Consideration in the Health Care Industry", and American Health Lawyers Association's Health Law Practice Guide Chapter entitled "Labor and Employment." She is also a former co-contributor to the Medical Group Management Association, *Personnel Postscript*, a periodical distributed to medical group practices nationwide.

Speaking Engagements

Stephanie is a resident of Park Ridge, Ill. and a member of the Illinois bar and various federal district and appellate courts. She received high honors as a graduate of the University of Illinois and graduated *magna cum laude* from the University of Illinois, College of Law.